

INFORMATION LETTER

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NATIONAL CANNERS ASSOCIATION

For Members
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Bills Would Restrict Trucks Hauling Perishables

Trucks hauling perishable foods to canneries for processing would be restricted in their freedom of operation under terms of bills on which the Senate Committee on Interstate and Foreign Commerce is conducting hearings.

S. 2362 and S. 2357 would prohibit farmers and fishermen from transporting any products other than perishable foods to market and would prohibit compensation for transporting other property.

These are two of 19 bills introduced by Senator Johnson (Colo.), chairman of the Interstate Commerce Committee. The Committee opened hearings this week on all 19 measures.

S. 2362 would amend the Interstate Commerce Act by prohibiting a private carrier from transporting any property for compensation other than that within the scope of its primary business.

S. 2357 would narrow the present exemption from the Interstate Commerce Act to motor vehicles controlled by farmers and fishermen and trans-

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Importance of Canned Foods Stressed by President Heinz

The importance of canned foods in world diplomacy was stressed by N.C.A. President Fred C. Heinz in an address at the 40th annual convention of the Utah Canners Association yesterday, March 7.

"Without the canning industry, it would not have been possible for the federal government to implement fully its program of aid for distressed foreign countries, which in the four years following World War II, has found us shipping more than 9½ billion dollars worth of edible agricultural products abroad," he said.

Mr. Heinz pointed out also how canned foods issued to our troops have not only served to feed them, but are an instrument of good will among foreign peoples. "This industry has made it possible for America to have an army that feeds itself

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N.C.A. Advises QMC of Industry Opinion On Set-Asides, Negotiation, Contracts

Subject to three major conditions, the canning industry has indicated approval of the use of set-aside orders, negotiated buying, and letter contracts in making sales to the armed forces out of the 1952 pack. Industry views were ascertained by N.C.A. in a survey of state and regional associations, and the recommendations

were transmitted by letter to The Quartermaster General this week by N.C.A.

The three conditions on which the industry favors set-asides, negotiated buying, and the use of letter contracts are:

"(1) The development in the industry of complete assurance that the government will purchase canned foods in the quantities required to be set aside by government regulation.

"(2) Assurance that a final contract entered into after June 30, as a result of a letter contract signed before June 30, will not be subject to Walsh-Healey stipulations; and

"(3) The inclusion of a certain and automatic release clause in the set-aside orders to protect the individual canner in the event that good faith bargaining fails to produce agreement on price following the use of the letter contract procedure."

The letter to The Quartermaster General was approved by the N.C.A. Procurement Committee and by the War Mobilization Committee.

In addition to the three major conditions on general industry acceptance of set-asides, negotiated buying, and the use of letter contracts, the letter noted that replies to the N.C.A. sur-

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Legal Minimums

Location adjustments by producing areas of legal minimum prices for vegetables for processing as of January 15, 1952, have been announced by the Production and Marketing Administration, USDA. The PMA announcement was reproduced by N.C.A. as a Supplement to the INFORMATION LETTER and mailed to member firms.

Circuit Court Limits FDA Factory Inspection Privilege

The United States Court of Appeals for the 9th Circuit has recently ruled, in a decision construing the factory entry and inspection provisions of the Federal Food, Drug and Cosmetic Act, that a food processor's refusal to permit entry and inspection at reasonable times by food and drug inspectors does not constitute a crime. The decision is of interest to food processors generally.

Two inspectors of the Food and Drug Administration approached a dehydrated food manufacturer in the State of Washington and requested permission to enter and inspect his factory premises. This permission was denied. The United States filed a criminal complaint, based on the defendant's refusal to permit entry and inspection of the processing establishment, against the operator.

Section 374 of the Food, Drug and Cosmetic Act provides that "officers or employees duly designated by the Administrator, after first making request and obtaining permission of the owner, operator, or custodian thereof, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment . . . of a food processor. Section 333 lists among the acts punishable under the Act "(f) the refusal to permit entry or inspection as authorized by Section 374." There was no issue of the reasonableness of the time.

The defendant contended that, under the plain language of Section 374, permission of the operator of the establishment is necessary before entry and inspection by the inspectors is authorized and that Section 331 should not be construed to deprive the proc-

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Corrections and Additions To N.C.A. Committee Lists

The following changes should be made in the list of N.C.A. Committees published in the INFORMATION LETTER of March 1:

The company affiliation of J. S. Cafiero, chairman of the Adjustment Committee for Southern States, was incorrectly stated. The correct listing reads:

Adjustment Committee Southern States

J. S. Cafiero, *Chairman*, J. S. Cafiero & Son, Thunderbolt, Ga.

The following men should be added to the Raw Products Technical Advisory Committee and to the Western Laboratory Committee as indicated:

Raw Products Committee Technical Advisory Committee to the Raw Products Committee

D. R. Porter, Campbell Soup Co., Sacramento, Calif.

Scientific Research Committee Western Laboratory Committee

Sven Lassen, Van Camp Sea Food Co., Inc., Terminal Island, Calif.

PUBLICITY

Good Housekeeping Magazine

The "Cake Cook Book" covers 40 pages of the February *Good Housekeeping* magazine, and makes generous use of canned fruits and juices.

This feature is filled with cake recipes of every type, fillings and frostings, and interesting suggestions and ways to serve cake. It includes regular cakes, cup cakes and petits fours. The section is illustrated in color photographs. At least half of the pages carry either full-page color photographs or the popular step-by-step preparation pictures in various series.

Dorothy Marsh, food editor, and the staff have concentrated on giving their nearly 10,000,000 readers easy-to-follow recipes and helpful cake-making hints. Included in the cake recipes are 42 uses of canned fruits and 8 uses of canned juices.

The same issue of *Good Housekeeping* contains the regular monthly features such as "Who's Who Cooks" which uses two canned fruits, a vege-

table and a paste; "Cook's Heaven", and "For the Hostess", which use two canned vegetables, one vegetable juice, three fruits, a meat, and a canned bread.

Canned foods are included in the editorial articles a total of 62 times in the February issue of the magazine.

Today's Woman Magazine

"Few desserts have more wholesome appeal than a juicy deep-dish fruit pie brought to the table with a touch of oven-warmth lingering in it," is the way Ruth Fairchild, food editor, begins her article "Deep-Dish Fruit Pies" in the February *Today's Woman* magazine.

Recipes for cherry, apple, pear-mince and peach deep-dish pies use canned fruits. The cherry pie is shown in a full-page color photograph accompanying the article.

Southern Planter Magazine

The February issue of *The Southern Planter* magazine carries an article entitled "Food and Fellowship" by Mavis Gibbs, food editor, which lists some of the recipe booklets published by the N.C.A. Home Economics Division.

The article begins, "Are you the chairman of the luncheon or supper committee for the church, school, home demonstration club, or other community organization? If so, you know the trials and tribulations of that assignment." It gives plans and helpful suggestions for setting up large affairs.

At the end of the article, the author lists several sources of free materials available to the readers on request, among which the booklets, "Entertaining From 4 to 25 Guests" and "Canned Foods Recipes for Serving Fifty" are recommended.

The requests for these booklets have been coming in daily at the rate of 50 or more.

Parade Magazine

Parade magazine, distributed with many leading newspapers, on Sunday, February 24, had as its food article "Tropical Pancakes."

As the dessert to celebrate pancake day, Beth Merriman, *Parade* food editor, gave her readers a recipe for pancakes with a sauce made of canned fruit cocktail.

Miss Smith Aids in Contest, First Stop on Business Trip

Miss Katherine R. Smith, Director of the N.C.A. Home Economics Division, served as an honorary judge in an advisory capacity at the National Cherry Pie Baking Contest held February 21 in Chicago. The contest is held annually by the National Red Cherry Institute. This is the first contest in which there were participants from all of the 48 states.

Chicago was the first stop on an extended business trip that will take Miss Smith to a number of major cities in Nebraska, Colorado, Utah, Oregon, California, Arizona, and Texas for conferences with home economics supervisors, school lunch managers, teachers, newspaper food editors, radio and television home economists, and others in the food field.

Miss Smith will attend conventions of the Utah Cannery Association, Northwest Cannery Association, Cannery League of California, Southern California Food Processors Association, and California Fish Cannery Association.

C.M.I. 'Seal of Approval' Established for Can Openers

As a result of a three-year program of can opener testing and work with can opener manufacturers, the Can Manufacturers Institute has awarded its seal of approval to eight can openers made by six different can opener manufacturers.

Announcement of the C.M.I. testing program and certified models was made February 28 at a meeting in New York City of over 100 food and equipment editors of national magazines and newspapers and the trade press.

The C.M.I. seal of approval is issued to can opener manufacturers for models which have been tested and qualified by the standards of performance established in the C.M.I. "Can Opener Evaluation Program." A can opener carrying the C.M.I. seal has met the requirements of (1) opening cans efficiently, (2) being easy to operate, (3) being safe and leaving cans free of jagged edges, and (4) being easy to keep clean.

The seal of approval is available for use as an identifying mark, tag, or insert on models of can openers which have been certified. Can opener manufacturers expect to show it on their packages and can openers reaching the consumer market early this month.

STATISTICS

Stocks and Shipments Of Canned Vegetables

Reports on canners' stocks and shipments of green lima beans, tomatoes, and tomato juice have been compiled by the N.C.A. Division of Statistics.

It should be noted that the data for tomatoes and tomato juice exclude California. Data for this state will not be available until the April 1 report.

Canned Lima Bean Stocks and Shipments

	1950-51	1951-52 (actual cases)
Carryover, Aug. 1.....	1,069,265	707,447
Pack.....	3,591,173	3,278,361
Total supply.....	4,660,438	3,985,808
Stocks, Feb. 1.....	2,543,564	2,079,240
Shipments, Aug. 1 to Feb. 1.....	2,116,874	1,906,568

Canned Tomato Stocks and Shipments (Excluding California)

	Stocks, Jan. 1, 1952	Stocks, Feb. 1, 1952 (actual cases)
Northeast.....	250,119	213,732
Mid Atlantic.....	2,345,708	1,660,768
Midwest.....	1,620,640	1,280,277
West, excluding Calif.....	380,355	310,284
South.....	316,184	230,838
Total, excluding Calif.....	4,913,006	3,695,899
Total, including Calif.....	8,358,941	n.a.

n.a.—not available. Figures which have been supplied by the Canners League of California are not available for February 1 and will not be available until the April 1 report.

Tomato Juice Stocks and Shipments (Excluding California)

	1951-52 (actual cases)
Stocks, excluding Calif., Jan. 1 ..	10,110,689
Shipments, excluding Calif., during Jan.....	1,292,296
Stocks, excluding Calif., Feb. 1 ..	8,818,393

California stocks on January 1 totaled 6,929,761 actual cases. Figures which have been supplied by the Canners League of California are not available for February 1 and will not be available until the April 1 report.

Trucks Hauling Perishables

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porting livestock, other unprocessed agricultural commodities, fish and shell fish to market.

Under the terms of S. 2357, if such vehicles were to carry passengers or other property for compensation on the same trip or on the return trip, they would become subject to regulation by the Interstate Commerce Commission.

The Interstate Commerce Act now provides total exemption for motor

vehicles carrying farm products and fish to market without regard to how the vehicles are used on the return trip. S. 2357 would restrict other provisions in the existing exemptions.

Under Section 203(b) of the Interstate Commerce Act, the vehicles exempted from ICC regulation include:

"(4a) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural commodities and products thereof, or in the transportation of supplies to his farm;

"(6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation."

The Johnson bill, S. 2357, would amend these two exemptions to read:

"(4a) motor vehicles controlled and operated by any farmer, (i) transporting supplies to his farm, or (ii) transporting ordinary livestock as defined in section 20(11) of this Act, or agricultural commodities (not including livestock or commodities which have been processed to a greater extent than is customarily done by farmers) prior to their marketing by the farmers raising or producing such livestock or commodities, if such motor vehicles are not used at the same time or on the return trip or customarily in any other kind of transportation for compensation;

"(6) motor vehicles transporting unprocessed fish (including shell fish) to market for the fishermen catching such fish, if such motor vehicles are not used at the same time or the return trip or customarily in any other kind of transportation for compensation."

Invitations for Bids

★ Quartermaster Purchasing Offices—111 East 16th Street, New York 3, N. Y.; 1819 West Pershing Road, Chicago 9, Ill.; Oakland Army Base, Oakland 14, Calif.

Veterans Administration—Procurement Division, Veterans Administration, Wash. 25, D. C.

The Walsh-Healey Public Contracts Act may apply to all operations performed after the date of notice of award if the total value of a contract is \$10,000 or over.

The Veterans Administration has invited sealed bids to furnish the following:

HOMINY GRAITS—7,200 24-oz. containers, f.o.b. destination. Bids due under S-193 by March 19.

MARASCHINO CHERRIES—3,600 one-half gallon jars or 1,800 gallon jars, f.o.b. destination. Bids due under S-200 by March 24.

BOUILLON—3,600 1-lb. containers of concentrated beef or vegetable bouillon, f.o.b. destination. Bids due under S-195 by March 25.

MINT JELLY—50 dozen No. 10 cans, or equivalent in other size cans, f.o.b. destination. Bids due under S-201 by March 25.

FARM PRODUCTS

Grapefruit Export Program

An export payment program to encourage exports of fresh and processed grapefruit during the current marketing season, effective March 5, has been announced by the Production and Marketing Administration, USDA.

The program provides for payments up to 40 percent of the export sales price, basis f.a.s. U. S. ports, to be limited by the maximum rates established for individual products, and is similar to the current export payment program on oranges.

Announcements containing full details of the program are being mailed by USDA to fruit exporters and members of the citrus industry.

FDA Factory Inspection

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error of the right to deny such permission. The District Court convicted the processor, declaring that in its view, Congress could not have intended "that refusal to permit entry and inspection is not punishable unless permission was first granted, or in other words, unless he granted permission and then changed his mind."

The Court of Appeals on February 13, 1952, reversed the decision of the lower court and acquitted the defendant. Pointing to the inherent ambiguity in the Act's provisions and to the legal principle that penal statutes must be given the construction most favorable to the accused, the Court concluded that it could not agree with the government's construction that "while under 374 the inspector is to make entries and inspection only after requesting and obtaining permission of the owner, operator, or custodian, Section 331(f) makes it a crime if the inspector's request is refused." The Court went on to say that the "Food Administrator's remedy for the efficient enforcement of the law's protective provisions is the amendment of Section 374."

Canners are warned that the Food and Drug Administration has indicated that it will not accept this decision as conclusively determining the scope of the Administration's power to make factory inspections. It is probable that the case will be appealed to the Supreme Court. Furthermore, the Court of Appeals decision can be considered as binding only on District Courts within the 9th judicial circuit, i.e. Arizona, California, Nevada, Idaho, Montana, Oregon, and Washington.

Heinz at Utah

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wherever it goes. It has done a spectacular job of supplying the regular and special rations for our forces that have helped to make them the best-fed troops in the world," he stated. "In World War II two-thirds of the food for the fighting forces of America came to them in cans. The fact that our men do not live off the countryside, as almost every other army in history has done, contributes greatly to the friendly spirit with which they are received in most lands."

"The tin can is an important social and historical force," Mr. Heinz continued. "Consider what it has meant at home. Today's mother doesn't have to cook food for her infant. Millions of hours of drudgery have been taken out of the kitchen. And how does Mrs. America like this? One answer is that the canning of baby foods has increased nearly 1,000 percent in the last 13 years. The canning industry and its products have earned the trust of the American housewife."

A press release reporting these comments by Mr. Heinz was issued by N.C.A.

N.C.A. Advises QMC

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vey indicate that "if the program is to receive the widest industry cooperation,

"(1) Purchasing officers and the field buyers must give full recognition in price negotiations to the price the individual canner is obtaining for identical merchandise from commercial buyers.

"(2) Many canners are not equipped to properly warehouse products for an extended period of time; therefore, shipping instructions should be issued within the following maximum periods of time after completion of pack: one-third within 60 days, one-third within 120 days, and the remainder within 180 days.

"(3) The standard termination clause in the proposed letter contract is unsuited to a contractual arrangement wherein no final contract price has as yet been agreed upon and the eventual development of a firm commitment to sell is dependent upon the parties' ability to agree on price. For example, the proposed clause authorizes the contracting officer, in the event of termination due to disagreement on price, to require delivery of completed items at a contract price which is as yet undetermined and which must be developed through termination proceedings. The theory of

free and open price negotiation is dependent upon proper revision of this termination clause."

The N.C.A. letter to The Quartermaster General continued:

"The letter contract procedure, Colonel W. E. Pheris stated, in addressing our Convention, is a method by which OQMG and the industry can operate to mutual advantage even under the drastically shortened exemption from Walsh-Healey. Again, with assurance that the exemption will carry on through the later executed formal or definitive contract, Colonel Pheris' statement is eminently correct. However, it must be emphasized that the prime advantage to OQMG of the letter contract is the advantage of contracting for production—the attendant satisfaction in the knowledge that canned foods will thus be bought at the greatest economy to the taxpayer and in the can sizes, styles of pack, and shipping cases desired by the military forces.

"The advantage of using futures contracts in the purchase of canned foods production will be available after June 30 as well as before that date. Many of the canned fruits and vegetables to be purchased will not be harvested and canned until August, September, and October. Thus, in any event, a further extension of the Walsh-Healey Act exemption is necessary.

"Our compliments to you for your splendid staff here in Washington and the Chicago and Oakland purchasing offices, and for their continuing spirit of cooperation with and understanding of the canning industry."

FOREIGN TRADE

Labeling for Venezuela

The Ministry of Health in Venezuela proposes to impose new and additional food inspection and label requirements on imports of canned foods. The proposed requirements would increase existing registration fees on each imported food from \$15 to \$60, would require labels to be in the Spanish language, and would require the label on each container to show the name and address of the importer and the government's registration number.

Information on the Venezuelan proposal is available from N.C.A. or from any Commerce Department field office.

Venezuelan importers may not have been informed of the potential effect of such requirements, if imposed, either on their own businesses or on the welfare of their customers in Venezuela.

Canners interested in making known their points of view on the proposal may write to their buyers in Venezuela or to:

Dr. George Wythe, Director
American Republics Division
Office of International Trade
U. S. Department of Commerce
Washington 25, D. C.

Venezuela is one of the principal foreign markets for canned foods. In 1950 it purchased canned foods valued at \$7 million, or approximately 11 percent of total exports.

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